

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

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**FILE:** B-218623  
**MATTER OF:** Rail Company

**DATE:** August 7, 1985

**DIGEST:**

Where the protester files comments on the agency report 9 working days after its receipt of the report, without requesting or being granted an extension of the 7-day period specified in the Bid Protest Regulations, the protest will not be considered.

Rail Company protests the award of contracts to Resource Consultants, Inc. and the Energystics Corporation under request for proposals (RFP) No. N00019-84-R-0030, issued by the Naval Air Systems Command.

We dismiss the protest because of Rail's failure to comment on the agency report in a timely manner.

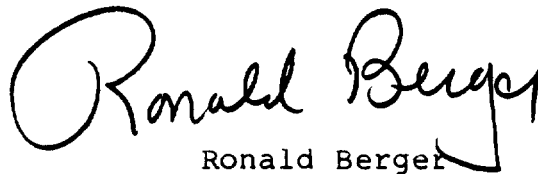
The Navy filed its protest report with our Office on July 1, 1985, requesting that the protest be denied. Rail specifically acknowledges that it also received a copy of the report on July 1. However, our Office did not receive Rail's comments on the report until July 15, 9 working days later.

As a general rule, our Bid Protest Regulations require a protester to file comments on the agency report not later than the 7th working day after its receipt of the report. See 4 C.F.R. § 21.3(e) (1985). The purpose of this and all the other time requirements in our regulations is to establish effective and uniform procedural standards that will provide all parties with a fair opportunity to present their cases. Equally important is the fact that these standards allow our Office the opportunity to resolve protests within a statutory 90-day timeframe, so that protests will not unduly disrupt the government's procurement process. See 31 U.S.C.A. § 3554(a)(1) (West Supp. 1985), as added by section 2741 of the Competition in Contracting Act of 1984; J.M. Security Service, B-218207.2, May 3, 1985, 85-1 CPD ¶ 498.

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Rail has informed us that it submitted its comments in reliance upon our old Bid Protest Procedures, which allowed protesters 10 working days to file their comments on an agency report. However, our current Bid Protest Regulations, which became effective on January 15, 1985, are published in the Federal Register, and protesters are charged with constructive notice of their contents. International Development Institute, 64 Comp. Gen. 259 (1985), 85-1 CPD ¶ 179. In addition, when we acknowledged receipt of Rail's protest, we specifically warned the company that we would close the file without a decision unless we received, not later than 7 working days after its receipt of the agency report, either written comments on that report or a request that the protest be decided on the basis of the existing record. The regulations also provide that, in appropriate circumstances, our Office may grant an extension of the 7-day comment period. 4 C.F.R. § 21.3(e). Rail, however, neither requested nor was granted an extension.

Based on the foregoing, we conclude that Rail should have been aware of the 7-day requirement for filing its comments. Its failure to meet this requirement compels us to dismiss its protest.



Ronald Berger  
Deputy Associate  
General Counsel